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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------|-------------|------------------------------|---------------------|------------------|
| 10/698,502 | 10/31/2003 | Michele M. L. Meyer-Fredholm | SP01-097C | 9613 |
| 22928 | 7590 | 10/04/2005 | EXAMINER | |
| CORNING INCORPORATED | | | STEIN, STEPHEN J | |
| SP-TI-3-1 | | | ART UNIT | |
| CORNING, NY 14831 | | | PAPER NUMBER | |

1775

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,502

Applicant(s)

MEYER-FREDHOLM, MICHELE M.
L.

Examiner

Stephen J. Stein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 July 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 24-40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 24-40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Drawings

2. In applicants' response to the last office action, applicants state the drawings were not indicated as being approved in the office action. It is noted that that no drawings appear to have been filed by applicants in this application and applicants' specification does not refer to any such drawings.

Claim Rejections - 35 USC § 102

3. Claims 24 and 27-39 are rejected under 35 U.S.C. 102(b) as being anticipate by US 3,655,354 (Quandt).

Quandt teaches a high permeability graphite crucible having a permeability of about 100 milli Darcys (greater than $14 \text{ cm}^2/\text{s}$) (abstract and col. 2, lines 65-70).

4. Claims 24-40 are rejected under 35 U.S.C. 102(b) as being anticipated by JP090328392A (Okubo et al.).

Okubo teaches a graphite crucible with a porosity of 10-20% (See abstract). With regard to the claimed permeability when measured to the DN Standard 51935, it is expected that the disclosed graphite crucible will exhibit this property since it is of the same porosity as claimed by applicants. It has been held that where the claimed and prior art products are identical or substantially identical in structure or are produced by identical or a substantially identical processes, a prima facie case of either anticipation or obviousness will be considered to have

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been established over functional limitations that stem from the claimed structure. *In re Best*, 195 USPQ 430, 433 (CCPA 1977), *In re Spada*, 15 USPQ2d 1655, 1658 (Fed. Cir. 1990). The *prima facie* case can be rebutted by evidence showing that the prior art products do not necessarily possess the characteristics of the claimed products. *In re Best*, 195 USPQ 430, 433 (CCPA 1977).

Response to Arguments

5. With regard to the rejections over the Yamazaki reference, applicants arguments have been considered, but are moot in view of new rejections made over newly cited art of record. With specific regard to applicants' arguments regarding the non-correlation of porosity and permeability, the examiner directs to applicants' attention to co-invented application SN 10/454,387, now US 6,860,942, wherein applicants specifically relate the permeability and porosity of graphite crucibles (See abstract).

Conclusion

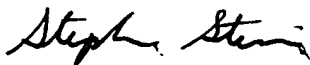
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Stein whose telephone number is 571-272-1544. The examiner can normally be reached on Monday through Friday from 8:30 a.m. to 5:00 p.m. If the attempts to reach the examiner are unsuccessful, the examiner's supervisor, Deborah Jones can be reached by dialing 571-272-1535. The official fax number is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 20, 2005

A handwritten signature in black ink, appearing to read "Steph. Stein".

Stephen J. Stein
Primary Examiner
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